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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2015-0053; Notice 1]

BMW of North America, Inc., Receipt of Petition for  
Decision of Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration (NHTSA),  
Department of Transportation (DOT)

**ACTION:** Receipt of Petition

**SUMMARY:** BMW of North America, Inc. (BMW) has determined that certain model year (MY) 2015 MINI Cooper, Cooper S hardtop 2 door, and Cooper S hardtop 4 door passenger cars do not fully comply with paragraph S4.2.3(a) of Federal Motor Vehicle Safety Standard (FMVSS) No. 226, *Ejection Mitigation*. BMW has filed an appropriate report dated May 20, 2015, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*.

**DATES:** The closing date for comments on the petition is **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and submitted by any of the following methods:

- Mail: Send comments by mail addressed to: U.S.  
Department of Transportation, Docket Operations, M-30,  
West Building Ground Floor, Room W12-140, 1200 New  
Jersey Avenue, SE, Washington, DC 20590.
- Hand Deliver: Deliver comments by hand to: U.S.  
Department of Transportation, Docket Operations, M-30,  
West Building Ground Floor, Room W12-140, 1200 New  
Jersey Avenue, SE, Washington, DC 20590. The Docket  
Section is open on weekdays from 10 am to 5 pm except  
Federal Holidays.
- Electronically: Submit comments electronically by:  
logging onto the Federal Docket Management System  
(FDMS) website at <http://www.regulations.gov/>. Follow  
the online instructions for submitting comments.  
Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at <http://www.regulations.gov> by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the Federal Register published on April 11, 2000, (65 FR 19477-78).

The petition, supporting materials, and all comments received before the close of business on the closing date for comments indicated above will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the Federal Register pursuant to the authority indicated below.

**SUPPLEMENTARY INFORMATION:**

**I. Overview:** Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), BMW submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of BMW's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency

decision or other exercise of judgment concerning the merits of the petition.

**II. Vehicles Involved:** Affected are approximately 4,208 MY 2015 MINI Cooper, Cooper S hardtop 2 door, and Cooper S hardtop 4 door passenger cars manufactured from February 25, 2015 to April 24, 2015.

**III. Noncompliance:** BMW explains that written information describing the ejection mitigation countermeasure installed in the vehicles was not provided to the vehicle consumers as required by paragraph S4.2.3(a) of FMVSS No. 226.

**IV. Rule Text:** Paragraph S4.2.3 of FMVSS No. 226 requires in pertinent part:

S4.2.3 Written information.

(a) Vehicles with an ejection mitigation countermeasure that deploys in the event of a rollover must be described as such in the vehicle's owner manual or in other written information provided by the vehicle manufacturer to the consumer.

**V. Summary of BMW's Position:** BMW stated its belief that the subject noncompliance in the affected vehicles is inconsequential to motor vehicle safety. A summary of its reasoning is provided as follows. Detailed explanations of its reasoning are included in its petition:

1. The vehicles are equipped with a countermeasure that meets the performance requirements of FMVSS No. 226.

2. The owner's manuals contain a description of the ejection mitigation countermeasure in the context of side impact.
3. The owner's manuals contain precautions related to the [ejection mitigation] system even though not required by FMVSS No. 226.
4. The [ejection mitigation] system uses the FMVSS No. 208 required readiness indicator, as allowed by FMVSS No. 226.
5. BMW has not received any customer complaints due to this issue.
6. BMW is not aware of any accidents or injuries due to this issue.
7. NHTSA may have granted similar manufacturer petitions re owner's manuals.
8. BMW has corrected the noncompliance so that all future production vehicles will comply with FMVSS No. 226.

In summation, BMW believes that the described noncompliance of the subject vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt BMW from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that BMW no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after BMW notified them that the subject noncompliance existed.

**Authority:** (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

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Director,  
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**Billing Code:** 4910-59-P

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